

AR 4161 Absence and Leave Provisions for Certificated and Certificated Management Employees

General Provisions

The provisions in this regulation apply to certificated and certificated management employees. Unless otherwise specified, wherever the term “employee” appears in this regulation, the term shall be understood to include certificated and certificated management employees.

A leave of absence is an authorization for the employee's absence from duty for a specific period of time and an approved purpose. A condition of each leave of absence is that any required license or certificate held at the time the leave was granted must be maintained in full force by the employee. Employees on paid leave of absence, unless otherwise provided herein, shall receive wages, fringe benefits, and retirement credit as though they were not on leave. Employees who go on an unpaid leave during any pay period shall receive fringe benefits for the balance of that pay period. Thereafter, they shall be allowed to remain on continued coverage pursuant to the terms of the insurance plan selected at their own expense, provided they make advance payment of the premium in a manner reasonably required by the District. Procedures in this Regulation for notification of absence are mandatory. Failure to follow absence notification procedures may result in forfeiture of salary for the day(s) of absence.

Whenever possible, employees shall request personal leaves in advance and prepare suitable instructions, including lesson plans as applicable, for a substitute employee.

Employees shall notify the District of their anticipated absence as soon as the need for the leave of absence is known, but in no event less than one hour before the employee's normal reporting time.

Sick Leave Entitlement

Certificated employees employed five school days per week are entitled to 10 days' leave of absence with full pay for personal illness or injury (sick leave) per school year of service. Employees who work less than five school days per week (part-time employees) shall be granted sick leave in proportion to the time they work.

Physician's Verification

The District may require a physician's verification of illness for an employee's absence of five (5) or more consecutive days. In addition, the District may require such verification when misuse of sick leave is suspected. A physician's verification shall be made by a licensed medical doctor. The verification shall state the nature of the disability, the cause of the disability, the beginning and ending dates of the disability, and shall verify that the employee is released to return to their regular duties with or without restriction.

Use of Sick Leave

Certificated employees may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of and in the course of employment; quarantine which results from contact in the course of employment; quarantine which results from contact in the course of employment with other persons having a contagious disease; or temporary inability to perform assigned duties because of illness, accident, or quarantine.
(Education Code 44964)

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2. Pregnancy, miscarriage, childbirth, and related recovery. (Education Code 44965, 44978)
3. Personal leave. (Education Code 44981)
4. Medical and dental appointments.
5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted. (Education Code 44984)
6. Need of the employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave).
(Education Code 44977.5; Government Code 12945.2; 29 USC 2612; 29 CFR 825.112)
7. Need of the employee or employee's family member, including a designated person, as defined in Labor Code 245.5 for the diagnosis, care, or treatment of an existing health condition or for preventative care. (Government Code 12945.2; Labor Code 233, 246.5)
8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee or the employee's child, when the employee has been a victim of domestic violence, sexual assault, or stalking.
(Labor Code 233, 246.5)

For the purposes specified in items #7-8, an employee may use, in any calendar year, the amount of sick leave that would be accrued during six months at the employee's then current rate of entitlement.
(Labor Code 233)

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

An employee shall reimburse the district for any unearned sick leave used as the date of termination.

Unused days of sick leave shall be accumulated from year to year without limitation.
(Education Code 44978)

While teaching summer school, an employee may use up to two (2) days of accrued sick leave for absences covered in this Regulation. Each day of summer school missed shall result in a deduction of one day of sick leave.

Leaves, Return to Work after Extended Industrial or Personal Illness or With Restrictions after Illness Leave

When an employee has been absent from work on personal illness leave for any duration, the employee must present their supervisor with a completed physician's verification form before resuming work. If the verification indicates return to "regular work duty," the employee may begin work. However, if the verification indicates that there are medical restrictions upon the employee's return to work, both the employee and their supervisor must understand the nature of the restrictions placed upon the employee.

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For personal injuries and illnesses, if the release has medical restrictions, the employee must meet with their supervisor and the personnel office before resuming work, and one or more of the following actions will be necessary:

1. If the restrictions are temporary and job duties can be reasonably modified to accommodate these restrictions, the employee will be allowed to return to work with a Temporary Modified Work Agreement (TMWA) in place.
2. If the restrictions are temporary and, in the opinion of the supervisor, job duties cannot be reasonably modified, the employee will be placed on personal illness or industrial accident leave, whichever is appropriate, until the doctor's restrictions are lifted or become permanent.
3. If the restrictions are permanent, and, based on medical evidence, the employee cannot perform all the duties of the job, the employee shall be eligible for the following:
 - a. Reasonable accommodation may be made for disabled employees by identifying barriers presented by the individual's disability, identifying possible accommodations, assessing the reasonableness of the accommodation(s) and identifying alternatives such as permanent light duty work, modified work schedules or reassignment to vacant positions. A determination shall be made as to whether the accommodation is an undue hardship, in which case the following options are available:
 - (1) Those employees whose permanent disabilities are due to a work-related injury may qualify for rehabilitation benefits.
 - (2) Employees may be considered for disability retirement.

Immediate Family

Defined as a parent, parent-in-law, grandparent, or grandchild of the employee or of the spouse of the employee, and the spouse, domestic partner, child, child-in-law, or the sibling of the employee. For the purposes of Bereavement Leave provisions only, "immediate family" also includes any relative living in the immediate household of the employee

Healthy Workplaces, Healthy Families Act Requirements

No employee shall be denied the right to use accrued paid sick days. The District will not discriminate or retaliate against any employee for using or attempting to use sick leave, filing a complaint with the California Labor Commissioner, or alleging district violation of Labor Code 245-249.

The Superintendent or designee will display a poster with the information required by the Labor Code, provide notice to eligible employees of their sick leave rights, keep records of employees' use of sick leave for at least three years, and comply with other requirements of Labor Code 245-249.

Personal Leave

Employees shall be entitled to use up to seven (7) days of paid sick leave allotment during each school year as personal leave. Personal leave days may be taken at the discretion of the employee for personal or family

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business that cannot be conducted outside of the regular work day. Examples of personal leave may include but are not limited to:

1. Death of a member of the immediate family as defined above.
2. An accident involving the person or property of the employee or of a member of the member's immediate family as defined above. The accident must be of such an emergency nature that the immediate presence of the employee is required during the regular work day.
3. Appearance in court as a litigant, or as a witness under order of subpoena.
4. Serious or critical illness of a member of the employee's immediate family, as defined above. The illness must be of such a serious or critical nature that the immediate presence of the employee is required during their regular work day.
5. Financial A condition or circumstance which, if unattended, would result in an unconscionable financial loss materially affecting the employee's ability to maintain reasonable conditions of sustenance for the member and dependents.
6. Religious holiday or observance of the member's faith which cannot be conducted outside of regular working hours.

Use of sick leave days for personal leave reasons shall not be used for purposes of participation in work stoppage or slowdown, sick-out, or Association activities.

Bereavement Leave

Employees are entitled to a leave of up to five (5) days upon the death of any member of the employee's immediate family, as defined above.

The bereavement leave days do not need to be taken consecutively, but must be taken within three months of the immediate family member's date of death.

The district may request that an employee seeking bereavement leave provide documentation to support the leave. Documentation may include: death certificate, published obituary, or written verification of death, burial or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution or government agency.

If documentation is requested, the employee must provide it to the district within 30 days of the first day of leave. Any documentation provided by an employee must be kept confidential and cannot be disclosed, except to internal personnel, legal counsel or as required by law. (Government Code 12945.7 (f) (i)).

No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985 and 45194; Government Code 12945.7)

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Service as a Witness or Juror

For time spent in court as a witness under subpoena to attend a civil proceeding as a witness in a matter regarding an event or transaction the employee perceived or investigated in the course of their duties, there shall be no deductions from pay. Any compensation for jury service shall be submitted to the District in return for the employee's full salary. No compensation shall be afforded for time spent in court as a litigant. An employee shall report days of jury service on the form available through the Jury and Court Coordinator's Office, and shall submit this to their school office with the attendance report.

Leave Without Pay

A permanent employee may request an unpaid leave of absence for a period not in excess of one school year for any reason not specified elsewhere in this Regulation provided the following requirements are met:

1. A substitute or temporary employee meeting District standards can be obtained.
2. The application, including the reason for the request, for said leave shall be submitted by February 15 of the year prior to the leave.
3. The District shall indicate to the employee by April 1 if the leave request has been granted or denied.
4. The employee shall receive no fringe benefits nor accrue other rights during the unpaid leave of absence.
5. The leave must be in the best interests of the District's instructional program.
6. Seniority shall be considered if only one leave is granted and more than one employee applies.
7. Unpaid leave shall not be granted for the purpose of seeking or accepting other employment. Accepting other employment during an approved leave will automatically terminate the leave.

The above-mentioned dates do not preclude the granting of an unpaid leave request for an applicant making such request after February 15.

Employees returning from leave shall confirm in writing their intent to return upon conclusion of the leave no later than March 15 of the year of the leave.

The board shall make the final decision whether to grant any unpaid leave of absence and may deny any leave request for any reason, regardless of prior treatment of leave requests.

Differential Pay Leave

During each school year, when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or accident, continues to be absent for an additional period of up to five school months, the district shall deduct from the employee's regular salary for that period the actual cost of a substitute to fill the position. If the district has made every reasonable effort to secure the services of a substitute and has been unable to do so, the amount that would have been paid to a substitute

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shall be deducted from the employee's salary. The amount deducted from the salary due for any month in which the absence occurs shall not exceed the then current rate of pay for the short term or long-term substitutes. For purposes of this Regulation only, a school month is defined as twenty (20) days on which a unit member is required to work.

The one hundred (100) work days shall begin to run on the first day of absence following the exhaustion of the current school year's sick leave and all accrued but unused sick leave from previous years. An employee shall not be provided more than one, one hundred (100) day period per illness or accident. If the illness or accident continues into a new school year, the employee, while ill or injured, may use up to the balance of one hundred (100) day period.

Use of extended illness leave and return there from is subject to the physician verification provisions of this Regulation.

If a certificated employee is not medically able to return to work after the five-month period provided pursuant to Education Code 44977, the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, the employee shall be returned to employment in a position for which the employee is credentialed and qualified. (Education Code 44978.1)

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